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Boston Redevelopment Authority

RULES AND REGULATIONS GOVERNING THE REQUIREMENTS FOR PROTECTION OF THE ENVIRONMENT.

April 11, 1974

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Boston Redevelopment Authority

Robert T. Kenney / Director

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MEMORANDUM

April 11, 1974

TO: Environmental Review Group / All Department Heads / All Project Directors / All Assistant Project Directors / All B.R.A. Attorneys

FROM: Robert T. Kenney, Director

SUBJECT: RULES AND REGULATIONS GOVERNING THE REQUIREMENTS FOR PROTECTION OF THE ENVIRONMENT

Chapter 30 Section 62 of the Massachusetts General Laws is the so-called "Environmental Impact Law." Section 62, which was effective July 1, 1973, requires the Authority to complete an environmental impact report prior to commencement of any work, project or activity which may cause damage to the environment.

On December 13, 1973, the Authority held a public hearing concerning proposed rules and regulations governing the requirements for the protection of the environment.

On April 11, 1974, by vote of the Authority, the Boston Redevelopment Authority approved and adopted regulations entitled "Boston Redevelopment Authority Rules and Regulations Governing the Requirements for Protection of the Environment" dated April 11, 1974. Said regulations were promulgated in accordance with Chapter 30 Section 62, and were adopted by the Authority in accordance with Section 1.2(b) and Section 13 of the Rules and Regulations of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts dated June 29, 1973, as amended October 15, 1973. (See attached copy.)

The regulations adopted today incorporate to the extent possible, the comments received from agencies and the general public.

Attachment:

RTK

Adopted by the Boston Redevelopment Authority on April 11, 1974

APRIL 11, 1974

BOSTON REDEVELOPMENT AUTHORITY

RULES AND REGULATIONS

GOVERNING THE REQUIREMENTS FOR PROTECTION OF THE ENVIRONMENT

1. GENERAL PROVISIONS

1.1 Authority. These regulations are promulgated by the Boston Redevelopment Authority in accordance with Massachusetts General Laws, Chapter 30, Section 62, (hereinafter C. 30, S. 62) and are implemented by vote of the Authority. In addition, these regulations are adopted in accordance with Regulation 1.2(b) and Regulation 13 of the Rules and Regulations of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, dated June 29, 1973, as amended October 15, 1973.

1.2 Purpose. These regulations are promulgated to create a uniform system for the the preparation of environmental impact reports and to detail the requirements that the Authority considers prerequisites for inclusion in environmental impact reports.

1.3 Relationship of General Laws, Chapter 30, Section 61.

(a) Meaning of Chapter 30, Section 61.

Massachusetts General Laws, Chapter 30, section 61 (hereinafter C.30,s.61) requires agencies of the commonwealth to review and evaluate all of their activities, to determine the impact on the natural environment of such activities and to use "all practicable means and measures to minimize damage to the environment". The section defines "damage to the environment" as significant actual or probable destruction, damage or impairment to the natural resources and historic sites of the commonwealth, and gives examples of what types of damage are included. The section contains a requirement that all statutes of the commonwealth "shall be interpreted and administered so as to minimize and prevent damage to the environment".

C.30, s. 61 is thus a requirement that agencies shall consider the impact on the environment of all of their activities and that they shall use all feasible and practicable means and measures to minimize or avoid damage to the environment. In addition, the section specifically states that all agency decisions shall include a finding describing the environmental impact, if any, of the project and state that all feasible measures have been taken to avoid or minimize adverse impact.

(b) Relationship of C.30, s. 61 to C.30, s. 62.

C.30, s. 61 requires all agencies to review and evaluate all work projects or activities conducted by them so that they can describe environmental impact and further requires them to use all practicable means and measures to minimize damage to the environment. C.30, s.62 requires the establishment of a system for writing and reviewing environmental impact reports. The evaluation required by C.30, S.61 will be contained in the impact report and the required findings should be based on that report, although the findings are not part of the report itself. C.30,s.61 should thus be viewed as the last step of a process designed to lead to the full disclosure of environmental impact through the C.30 s. 62 procedures and then to the actual avoidance or minimizing of adverse environmental impact by decisions made in compliance with C. 30, s. 61.

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1.4 Purpose of Environmental Impact Reports: An environmental impact report is an informational planning document which, when fully prepared according to applicable regulations and C.30, s. 62 will inform public decision-makers and the general public of the environmental effects of the activities public decision-makers propose to carry out or approve. An environmental impact report is a useful planning tool to enable environmental damages and benefits to be fully disclosed and considered by public agencies before they make their decisions. Consequently, environmental impact reports must be prepared, and the environment considered, as early in the agency planning and decision-making process as is possible, and in any case, before the final decision is made. An environmental impact report should not be used to justify or support a decision which has already been made. Environmental impact reports, whether prepared by the Authority itself, through outside contractual arrangements or otherwise, must be carefully considered by Authority Members before they decide to proceed with a project and before they determine the final form which the project will take. Indications of adverse environmental impacts appearing in an environmental impact report do not in themselves require that a proposed activity be halted, as long as all feasible measures have been taken to avoid or minimize such an impact. The Authority retains existing powers pursuant to Massachusetts General Laws, Chapter 121B, and all other generally applicable law such as C. 30, s. 61, to make its decisions based on a balancing of environmental, economic and social objectives.

2. DEFINITIONS. As used herein the following words shall have the following meanings:

2.1 "Authority" shall mean the Boston Redevelopment Authority, a public body, politic and corporate organized under Massachusetts General Laws, Chapter 121B, as amended, and an authority of a political subdivision of the Commonwealth as referred to in C. 30, s. 62.

2.2 "Days" Calendar days; provided, that in computing time periods such periods shall exclude the day of the event which starts the period running and further provided that if the last day of a period falls on a Saturday, Sunday, or a legal holiday such period shald be extended to the end of the next business day;

2.3 "Environmental Impact", any significant benefit or damage to, or impairment of the natural resources as defined in Chapter 30, Section 61 of the General Laws.

2.4 "Project" - shall mean any urban renewal project not exempt by Regulation 13 conducted under the provisions of Chapter 121A or Chapter 121B of the Massachusetts General Laws and the redevelopment of any individual development parcel within the overall urban renewal project not otherwise categorically exempt under Regulation 8 or Regulation 13. "Project" shall also mean any work project or activity conducted by the Authority which are redevelopment activities and may have environmental impact and which is (a) directly undertaken by the Authority or is (b) to be performed for the Authority by a contractor supported by financial assistance from the Authority, but does not include any work, project or activity which are Planning Board activities and are conducted by the Authority pursuant to Chapter 652 of the Acts and Resolves of 1960 when the Authority is acting only in its capacity of the Planning Board of the City of Boston.

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2.5 "Secretary", the secretary of the Executive Office of Environmental Affairs.

2.6 "Significant", significance should be determined according to the magnitude of an impact and its probability of occurring. Small impacts can have a cumulative effect which is significant. Irreversibility, effect on man, degree of change, duration of impact, and scope and stability of affected ecosystems are all factors which are relevant in determining significance.

2.7 "Applicant", the person, persons or other legal entity finally designated by the Authority to redevelop any parcel or parcels of property within the control and/or jurisdiction of the Authority. "Applicant" shall also include an applicant for an Urban Redevelopment Corporation (Limited Dividend) created under Massachusetts General Laws, Chapter 121A and shall include a contractor performing work for the Authority.

2.8 "Urban Renewal Plan". Any plan for the renewal or improvement of a geographical area under the control of the Authority which has been approved by the Authority, the City of Boston, and the Department of Community Affairs of the Commonwealth of Massachusetts.

2.9 "Director" - the Director of the Boston Redevelopment Authority.

2.10 "Department" - the Department of Community Affairs of the Commonwealth of Massachusetts.

2.11 "Environmental Review Group" - An advisory group established within the Authority that will review all environmental assessment forms and environmental impact reports and will submit its recommendation concerning these items to the Director of the Authority.

3. INITIAL PROCEDURES

3.1 Environmental Impact for Urban Renewal Projects

In the case of an urban renewal project undertaken by the Authority, the Authority itself, or thru a consultant approved in accordance with Regulation 11, shall prepare an environmental impact report for the overall activities included within a proposed urban renewal project not exempt by Regulation 13 of these regulations. The Authority shall complete this impact report in accordance with C. 30, s. 62 and these regulations during the initial planning and design phase of an urban renewal project. Said report shall be submitted to the Secretary and also shall be submitted to the Department at the time of submittal to the State of an application for project approval under Chapter 121B of the Massachusetts General Laws (and said Impact report shall be so published and disseminated as to inform the Metropolitan Area Planning Council, the Attorney General, and those reviewing agencies, departments, boards, commissions, divisions or authorities having jurisdiction by law or special expertise with respect to any environmental impact involved. This initial environmental impact report shall cover those activities which the Authority will directly undertake as a result of a Chapter 121B approval, including the impact of all land acquisition, demolition, relocation, and site preparation to be undertaken by the Authority within the area. This report should also treat to the extent possible the environmental impact of the overall development activities eventually to be developed within the project; which individual development proposals will be subsequently subjected to the complete environmental review process provided by C. 30, s. 62 and the provisions of these regulations.

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3.2 Preparation of the Environmental Assessment Form.

(a) In the case of all other projects identified in Regulation 2.4, including the redevelopment of any individual redevelopment parcel within an urban renewal project, the Applicant shall, during the initial planning phase of any project which may cause significant environmental damage, consult with the Authority and in conjunction with the Authority staff decide whether it will prepare an Environmental Impact Report by using an Environmental Assessment Form (See Appendix A) to assist it in making this decision and submitting the completed Environmental Assessment Form to the Director of the Authority for review by an Environmental Review Group of the Authority.

(b) Blank Environmental Assessment Forms will be available upon request from the Authority.

(c) The Environmental Assessment Form is not an environmental impact report or a draft report within the meaning of C. 30, s. 62.

(d) If it is decided by the Applicant in conjunction with the Authority staff that a draft environmental impact report will be prepared, work on it shall begin immediately. If it is decided by the Applicant in conjunction with the Authority staff that a report will not be prepared, the Applicant need prepare no additional paperwork after the Environmental Assessment Form is submitted to and approved by the Authority.

(e) In the rare siguations where immediate emergency action by an Applicant is essential to avoid an imminent threat to public health or safety, or a serious and immediate threat to the natural resources and if the Authority concurs in such a determination that an emergency exists, a project may commence without an Assessment Form or an impact report. Within 60 days following the initiation of such project the Applicant shall commence compliance with the provisions of these regulations. Any impact report prepared under this section should specifically consider alternatives to the immediate emergency action, the length of time for which the immediate action should be continued, and the desirability of taking similar action in similar circumstances in the future.

(f) If a submitting Applicant decides not to proceed with a project after an Environmental Assessment Form has been submitted indicating that a report will be filed for the project, the Applicant shall notify the Authority in writing of its decision.

(g) If a proposed project is changed so that it may cause significant environmental damage after an Environmental Assessment Form has been submitted indicating that a report will not be filed for the project, the project shall be re-evaluated and a new Environmental Assessment Form submitted.

3.3 Submittal of Environmental Assessment Forms.

(a) Upon the submission to the Authority of an Environmental Assessment Form which concludes that a project will not cause significant environmental damage (a Negative Assessment) and if the Authority concurs in such a negative assessment, the Authority shall have published notice of the availability of such Assessment Form in a newspaper of general circulation in the Boston area. The Authority shall make copies of the Assessment Form available to other agencies and to the general public upon request. All written comments from state and regional agencies and the general public must be received by the Authority no later than fifteen (15) days from the date of publication of the notice of the availability of the Assessment Form.

(b) Every Negative Assessment Form filed by an Applicant with the Authority under these regulations shall be accompanied by a filing fee of Fifty ($50.00) Dollars for the Authority's costs relating to publishing notice of the submission of such a Negative Assessment. This filing fee may be reduced or waived by the Authority if in the Authority's determination this additional cost would create a hardship.

(c) Notwithstanding the above, the Authority may require, before it accepts a Negative Assessment Form for publication, further documentation from the Applicant to substantiate the Applicant's decision to submit a negative assessment. In each instance involving a Negative Assessment the Authority shall make a final and independent determination as to whether the submission of a Negative Assessment Form adequately and properly complies with the provisions of these regulations.

4. FILING OF ENVIRONMENTAL IMPACT REPORTS.

4.1 In any instance requiring the filing of an Environmental Impact Report, the Applicant performing the project shall file with the Authority an Environmental Impact Report in sufficient quantity for the Authority to publish and disseminate the Report in accordance with C. 30, s. 62, and in accordance with these regulations.

4.2 The Authority shall, after the impact report has been reviewed by the Authority's Environmental Review Group, publish the said Environmental Impact Report or hold a public hearing on said report, in accordance with the provisions of C. 30, s.62.

5. JOINT AND/OR COMBINED ENVIRONMENTAL IMPACT REPORTS.

5.1 When two or more Applicants are involved in a project, they may file a jointly prepared environmental impact report. Contents and form will be the same as that of a report prepared by a single Applicant except that differences in opinion about specific items in the report should be indicated. Parties may agree on a single Applicant to prepare the report but in such case each remains mutually responsible for the content of the joint report. If a single Applicant prepares a joint report the report shall be prepared pursuant to these regulations.

5.2 Where separate projects are substantially similar in their environmental impact and are undertaken repeatedly, the Authority may permit an Applicant to prepare a combined environmental impact report covering such actions. The combined report shall comply with these regulations, shall specifically identify the covered projects, and shall describe the cumulative environmental impact of the projects. An Applicant using a combined report shall prepare a new report if the projects intended to be covered by such report change significantly. The Authority may at any time require a separate impact report for any project which is covered by a combined report. Combined reports may, for example, be used to assess the overall environmental impact of a series of routine projects.

5.3 If an agency, department, board, commission, or authority of the commonwealth or any authority of any political subdivisfon thereof has, prior to commencing any work, project, or activity which may cause damage to the natural environment, published a final environmental impact report in accordance with the provisions of C. 30, s. 62, then this Authority if it approves and adopts this report is not required to publish another environmental impact report under the provisions of C. 30, s. 62 when it approves or reviews this same work, project, or activity.

5.4 And correspondingly so, if this Authority has, prior to commencing any work project, or activity conducted by the Authority which may cause damage to the natural environment, published a final environmental impact report in accordance with the provision of C. 30, s. 62, then another agency, department, board, commission, or authority of the Commonwealth or any authority of any political subdivision thereof, it if approves and adopts this environmental report is not required to publish another environmental impact report under the provisions of C. 30, s. 62, when it simply approves or reviews this same work project or activity.

6. ENVIRONMENTAL IMPACT REPORT CONTENTS

The depth and level of analysis throughout the report should be commensurate with the magnitude of the project, the availability of alternative projects and alternative methods to reduce impact and the extent to which detailed analysis would help to resolve uncertainty about environmental impacts.

An environmental impact report shall contain the following parts:

PART I - A copy of the completed Environmental Assessment Form for the project.

PART II - Summary sheet or sheets.
There shall be a summary sheet or sheets, written in clear and non-technical language, which shall contain:
(a) the name of the project and a brief description of it.
(b) Any applicable federal or state identification number.
(c) the name of the Applicant and any consultant who aided in the preparation of the report.
(d) the date that the report was submitted to the Authority.
(e) a summary of the major benefits, costs and environmental impacts of the project.
(f) an indication as to whether the report is a draft or final report.

PART III - Description of the Project.

This part should discuss the nature and extent of the proposed work. It shall include:

(a) The type of project;
(b) The objectives of the project, and a specific discussion of the benefits of the project;
(c) A general description of the project's characteristics (e.g., size, dollar cost, location, etc.) Where appropriate, the location and boundaries of a proposed project should be indicated on a detailed map.
(d) An approximate timetable for the project;
(e) The method of construction, where applicable.

PART IV - A description of the environment of the area likely to be affected by the proposed project.

This part should describe the environmental surroundings as they exist before the project is commenced. The physical, socio-economic, and aesthetic characteristics both of the immediate area of the project and of the area likely to be affected by the project should be described. Environmental characteristics discussed shall include three main categories: (1) existing physical environment (natural and man-made): (a) physiography, (b) vegetation, wildlife, and natural areas, (c) land uses and physical character of area, (d) infrastructure (transportation network and utilities), (e) air and water quality, (f) noise levels; (2) existing socio-economic environment: (a) character of community, (b) economic factors, (c) community facilities and services; (3) existing aesthetic environment: (a) general aesthetic character, (b) historical, archaeological, and significant architectural sites, (c) scenic areas and views. Any rare or unique aspects of the area, that might not be common to other similar areas shall be specifically itemized. All applicable environmental regulatory requirements shall be described. This list of factors is meant to be used as a guide, rather than as a limit to the analysis. Other topics shall be included where significant.

PART V - Alternatives to the proposed project.

Alternatives to the proposed action must be listed, and where appropriate the major benefits and costs of each described.

The alternatives shall be evaluated giving primary consideration to the Authority's mission (which among other things includes eliminating those areas within the Authority's jurisdiction that are determined to be decadent, substandard or blighted open areas and the improvement of the area and the disposition of the property for redevelopment in accordance with an approved plan) the mandate of C.30,S.61 that agencies use all practicable means and measures to minimize damage to the environment, and the protection of the public interest.

Applicants are urged to make use of the resources of appropriate federal, state, and local agencies, private groups and educational institutions in evaluating alternatives to their proposed projects.

The Applicant should consider all reasonable alternatives to the project which that Applicant could implement, including the alternatives of deferring action and of taking no action. Discussion of alternatives should also include where appropriate, alternative locations or sites, alternative sizes, and alternative designs. The Applicant should discuss the impact of the alternatives considered.

PART VI - The probable impact of the proposed project and its alternatives on the environment.

Both damage and benefits to the environment arising from the project and its alternatives must be discussed in this section. Consideration should be given to the economic costs and economic benefits of the projects and its alternatives. The quality of the environment of the area and its impact on the expected users of the proposed project should be discussed. Major constraints or opportunities presented by the existing environment which serve to limit or contribute to the vitality of the proposed project should be described. The proposed project should be evaluated in terms of what is being impacted, the source of impact, and the degree of severity of impact. Where appropriate, the relationship among the various components of a proposed project should be discussed. Identify the quality of the environment which will be created by the project.

Both primary and secondary consequences should be included. All phases of the project must be considered when evaluating the impact of a project on the environment. Items in the Environmental Assessment Form can be used as a guide for anticipating the types of impact that can occur, but should not be considered as all-inclusive.

If there is uncertainty about potential impacts and their probabilities, these uncertainties should be expressed. If disagreements exist, they should be indicated. If the information obtained by the project would be of value in assessing the environmental impact of future projects, this should be noted. Applicants should be careful to state all areas in which they feel data concerning impacts is unreliable or inadequate.

The time frame of environmental impacts must be specified. Short-term and long-term environmental consequences which cannot be avoided, should the work be performed, must be described. The degree of irreversibility of impacts should be indicated. Uncertainty about the time frame or about the degree of irreversibility should be treated explicitly.

Effects which depend on the actions or projects of other agencies or on other actions by the Applicant or the Authority should be identified as such. For such cumulative or otherwise interdependent effects, the possible impacts of the project should be estimated both under the assumption that the other actions or projects are undertaken, and under the assumption that they are not undertaken.

In general, this section must include information and technical data adequate to permit a careful assessment of environmental impact by the Authority and other interested parties. However, it should not include unnecessary description or detail in excess of that needed for evaluation and review of environmental impact. However, all sources of information and technical data must be cited in the report with adequate bibliographic references. Highly technical and specialized analyses and data, if relevant to an adequate assessment of the report, should be attached as appendices.

PART VII. All measures being utilized to minimize environmental damage. Any measures during design, construction or operation that are currently included in the proposed project to reduce adverse environmental impact or to produce a beneficial impact shall be described. A so discuss measures other than those included in the proposed project being taken by local governmental bodies, State agencies, Federal agencies, or private groups or individuals which will enhance environmental quality or reduce adverse environmental impacts. Distinguish between actions underway, firm and tentative plans, and preliminary discussions.

Impacts which cannot be avoided or ameliorated by pursuing an alternative course of action should be identified and discussed. If adverse impacts could be avoided or reduced by alternative measures, the reasons for selecting the proposed action and rejecting the alternative should be described.

Alternative measures which might feasibly be considered for use in the proposed project to reduce damages to levels equal to or below those achieved by the proposed project shall also be listed. In addition, alternative measures which might feasibly result in an environmental benefit shall be listed.

Disagreements as to the relative merits and costs of these alternatives should be noted.

PART VIII - Written comments by reviewing agencies and the public, if any, and responses by the Applicant and/or Authority.

Written comments, if any, by all reviewing agencies, and any state agency, department, board, commission, division, or authority which have special expertise with respect to any environmental impact involved shall be affixed to the final report. An indication of the Applicant and/or Authority responses to such comments shall also be affixed to the final report.

7. PREPARATION AND REVIEW OF ENVIRONMENTAL IMPACT REPORTS.

7.1a Environmental Impact Report Preparation. In the case of an overall urban renewal project to be undertaken by the Authority, the Authority shall include the preparation of an environmental impact report as a part of the initial planning and design phase of the project. In order to achieve the greatest possible involvement of Authority personnel and decision-makers in the assessment and consideration of environmental impact, the Authority will use its own full-time staff as much as possible in the preparation of this report.

7.1b In the case of all other projects, including the redevelopment of any individual redevelopment parcel within an urban renewal project, or any other activity, requiring, in accordance with those regulations, the preparation of an environmental impact report, the Applicant shall include the preparation of the environmental impact report as part of the initial planning and design phase of the project. The Applicant is encouraged during the preparation of the impact report and prior to formal submission of such report to the Environmental Review Group, to consult with the Authority staff as much as possible in order to assure the greatest possible involvement of Authority decision-makers in the assessment and consideration of the environmental impact of such project. The Authority may use its own full-time staff in the preparation of these reports, provided, however, that the Authority may seek reimbursement for its costs in preparing a report from an Applicant who directly benefits by the Authority staff preparing such report.

7.1c In drawing a distinction between an urban renewal project and an individual redevelopment parcel, it is recognized that overall urban renewal projects are commenced and completed in phases which are inter-related activities and form logical sequences. Some of these activities (such as land acquisition, relocation and demolition) are the responsibility of the Authority, whereas actual construction on individual redevelopment parcels is undertaken by a particular developer. Where feasible, and sufficient information is available, a single comprehensive environmental evaluation of the components of the contemplated urban renewal project may be appropriate. When all significant issues cannot be anticipated or adequately treated in connection with the comprehensive assessment of the project as whole, then separate environmental reviews of the distinct phases, concurrent with the phased nature of the urban renewal project, will be necessary. An Applicant may, with the approval of the Authority, prepare an Environmental Assessment Form and/or an Environmental Impact Report for each phase or combination of phases of a project that the Authority determines is a separate and distinct work activity, and may, with the approval of the Authority, prepare an Environmental Assessment Form and/or an Environmental Impact Report for separate stages of large-scale or long-term projects. To the extent possible, environmental impact reports should discuss impacts of subsequent phases of the project.

7.2 Draft Environmental Impact Report Review. Draft environmental impact reports shall, upon completion, be reviewed by the Environmental Review Group of the Authority. This review shall take place prior to formal submission of the draft report to outside agencies or availability to the general public.

7.3 Draft Environmental Impact Report Circulation; General Public. Upon completion of a draft environmental impact report, and after review of the report by the Authority's Environmental Review Group, public notice of the availability of such report shall be given by the Secretary pursuant to the so-called "Section 62 Monitor". The Authority shall make copies of the report available to the Metropolitan Area Planning Council, the Project Area Committee (if applicable) and to the general public upon request and may charge the general public for the cost of reproduction of such copies.

7.4 Date for receipt of comments. All written comments from state and regional agencies and the general public must be received by the Authority no later than thirty days from the date of publication of the notice of the availability of the draft impact report in order to have their written comments, if any, affixed to the final impact report.

7.5 Public hearings. The Authority encourages the use of public hearings, informal workshops or public meetings at appropriate times, before and during the Applicant's preparation of the impact report. Where the Authority is already required to hold a public hearing on a project, environmental impact will be one of the matters considered at such hearings. The Authority encourages Applicants to make use of public comment and resources as early in the planning process as is possible and before the production of an environmental impact report if possible. The Authority and the Applicant will make as much information as possible available to the public concerning the proposed project to maximize the effect of a hearing, workshop or meeting, and to enable the Authority and the Applicant to best utilize public participation to determine the content of impact reports. The Authority and the Applicant should provide sufficient notice time before any hearing, workshop or meeting to permit the public to prepare adequately, and to make informed contributions at the hearing or workshop meeting.

7.6 Final Environmental Impact Report Preparation. The final report will have affixed thereto comments, if any, received from appropriate agencies and the secretary and shall indicate what action, if any, the Applicant and/or the Authority has taken in response to such comments. The final report shall have affixed thereto a description of the extent and magnitude of public response, representative comments from members of the general public and an indication of the Applicant's and/or the Authority's response to such comments.

7.7 Final Environmental Impact Report Review and Circulation. The final environmental impact report shall be noticed, reviewed and circulated pursuant to Regulations 7.2 and 7.3. The date of publication of the final report shall be the date of publication of availability of such report by the Secretary pursuant to the so-called "Section 62 Monitor".

7.8 Public documents. The draft report, final report, and all written comments timely received shall be public documents.

7.9 Review of draft and/or final reports by secretary. In addition to any other comments which he may make, the secretary shall, for the draft report, within fourteen days after the time permitted for comments pursuant to Section 7.4, and for the final report, within thirty days after the date of publication of the notice required by regulation 7.7, issue a written statement, indicating whether or not in his judgment said reports adequately and properly comply with the provisions of C.30, s. 62. If the secretary fails to act within the required time periods, such failure shall be of the same effect as an approval. In each instance, the Authority shall make that final and independent determination as to whether the draft and/or final report adequately and properly comply with the provisions of C. 30, s. 62, and with the provisions of these regulations.

7.10 Notwithstanding anything to the contrary in these regulations, the Applicant with the approval of the Authority, may prepare a Final Environmental Impact Report without having prepared a Draft Environmental Impact Report whenever the Authority determines the preparation of a Draft Environmental Impact Report is unnecessary, impracticable or contrary to the public interest. However, this Final Report shall be reviewed, noticed and circulated in accordance with Regulation 7.7 and the final report will have affixed thereto all comments received from appropriate agencies, the secretary, and representative comments from members of the general public.

7.11 Commencement of Projects. No Applicant shall commence any project until sixty days after a final environmental impact report has been published in accordance with the provisions of C. 30, s. 62 and these regulations, or until sixty days after a public hearing has been held by the Authority on said impact report.

8. CATEGORICAL EXEMPTIONS.

To aid the Applicant in determining which types of projects do not involve significant damage to the environment and thus do not require the preparation of an environmental impact report, the following list of exemptions is provided. In adopting rules and regulations for the further implementation of C.30, s. 62, the Authority has listed below specific activities which fall within each broad classification of projects that are categorically exempt from the necessity of preparation of environmental impact report. Even though a project may qualify for a categorical exemption, an Applicant may still be required to file an Assessment Form in accordance with Regulation 3 of these Regulations. However, in any instance listed below, the Authority may, notwithstanding the exemption, require the preparation of an impact report if it determines the preparation of said report would be in the public interest.

8.1 Categorical Exemption Classes. No categorical exemption shall apply with respect to an overall urban renewal project. The Authority shall complete in accordance with C. 30, s 62 and these regulations an impact report for the overall project during the initial planning and design of the project and said report shall be submitted to the Secretary and the Department at the time of submittal to the state of an application for project approval under Chapter 121B of the Massachusetts General Laws.

Class 1: Existing Facilities. Class 1 exemption shall include the abandonment, improvement, reconstruction or installation of utilities such as water, sewer, police and fire communication, traffic signals and street lighting systems and the construction of new open space and roads or the realignment of roads within a project, providing such installation of these public improvements or realignment of roadways do not result in any substantial increase of such facilities or roads within the project as a whole. Class 1 exemption also includes the proclaimer of minor modification in an urban renewal plan in accordance with longstanding regulations of the United States Department of Housing and Urban Development or the filing of an amendatory application for loan and grant contract which does not result in any substantial increase of activities in the project as a whole or when said amendatory application affects only the amount of financial assistance to the project.

Class 2: Replacement, Rehabilitation, Restoration or Reconstruction. Class 2 exemption consists of the rehabilitation of buildings in accordance with an approved Urban Renewal Plan, all such rehabilitation shall be in compliance with applicable building, housing, zoning, fire, plumbing, electrical codes of the City of Boston or Commonwealth of Massachusetts. Class 2 shall not include the restoration and reconstruction of buildings of special historical or architectural significance. Any rehabilitation, restoration, or reconstruction shall not be categorically exempt if it substantially alters the size or physical characteristics of such building or results in a change in use from that approved in the Urban Renewal Plan.

Class 3: New Construction of Small Structures. Class 3 exemption shall include the construction of small new facilities or structures and the installation of minor new equipment and facilities. "Small" shall be limited to any project having a cost of $500,000.00 or less. Class 3 exemption shall also include the development of sliver or so-called "fragment" parcels within a project area, including development on small lots for four or fewer housing units and the construction of residential development of low to moderate income housing of less than one hundred units or the new construction of housing on parcels that do not result in a net increase in the number of units previously existing on these parcels.

Class 4: Minor Alterations to Land. Class 4 exemption shall include the temporary lease of land or buildings prior to development, and said exemption shall include the use of land or buildings for project office facilities, recreation, parking, or social or relocation purposes.

Class 5: Information Collection. Class 5 shall include investigation, studies, survey and plans to determine, among other things, what areas within its jurisdiction constitute decadent areas; shall also include execution of service contracts for planning, engineering, appraisals, legal, architectural, relocation and social services.

Class 6: Inspection. Class 6 exemption shall include inspections conducted for rehabilitation standards and for housing code violations and shall include the inspection necessary to check for contract compliance or contract completion.

Class 7: Ministerial Projects or Advisory Opinion. Class 7 exemption shall include the advertisement for development interest and advertisement for public bids. This exemption shall include advisory opinions on Board of Appeal Referrals and Petitions to the Zoning Commission, however, this shall not categorically exempt major Planned Development Area Projects. Class 7 exemption shall also include the designation of a tentative developer. However, if said development otherwise requires an impact report, said tentative designation will be conditioned upon a satisfactory completion of the environmental report.

Class 8: Legal Obligations. Class 8 shall include any legal obligation of the Authority with respect to contracts, the overall Urban Renewal Plan or federal government loan and grant contracts and applicable HUD regulations, such as, but within limitation, payment of bills, establishment of land acquisition and disposition prices, eminent domain taking and the issuance of Certificates of Completion.

8.2 No project shall qualify for any categorical exemption if the project would be located in a particularly sensitive environmental area where an otherwise insignificant impact could become significant, or if it would be located in an area of critical environmental concern as determined by the Authority and the Secretary.

8.3 No series of projects by an Applicant shall qualify for any categorical exemption if the cumulative impact of such projects,as determined by the Authority and the Secretary, is significant.

9. USE OF IMPACT STATEMENTS REQUIRED BY FEDERAL LAW.

In order to avoid unnecessary duplication of effort, federal impact statements may be submitted in lieu of the above-described reports. Such statements shall, however, be circulated and reviewed as required by these regulations.

10. JUDICIAL REVIEW

No legal action based on a failure to comply with these regulations or with C. 30, s. 62 may be filed unless such action is filed no later than sixty days after the date of publication of the final environmental impact report as defined in regulation 7.7; provided, however, that a legal action which is brought pursuant to Chapter 214, section 10A of the General Laws may be brought if the notice required by paragraph four of that section is filed within such sixty-day period.

11. JOINT APPROVAL OF SELECTION OF CONSULTANTS

An Applicant proposing to have outside professionals to aid in the preparation of an environmental impact report shall submit the name of such consultant and a statement of his qualifications by professional training and experience to the Authority and the secretary for their approval.

12. U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ENVIRONMENTAL REQUIREMENTS

Where required, in accordance with applicable HUD regulation, the Applicant shall also complete and submit an ECO-1 "Applicant Environmental Information" (or other such form as may be required) to the Authority for its review and submission to the Department of Housing and Urban Development.

13. NON-RETROACTIVE APPLICATION

Urban Renewal projects shall be deemed to have commenced when the Authority has received all federal, state, and local approvals necessary to implement the Urban Renewal Plan. An individual redevelopment parcel shall be deemed to have commenced when the Authority has undertaken a continuous program of action or construction or has entered into a binding agreement or other obligation to undertake and complete a continuous program of action or construction for such redevelopment parcel.
An environmental impact report is required for any urban renewal project approved after July 1, 1973. An environmental assessment form and/or an environmental impact report is required for the redevelopment of any individual development parcel within a previously approved urban renewal project in each instance where a redeveloper had not, prior to July 1, 1973, been tentatively designated by the Authority to develop that parcel, or where the redevelopment or any individual development parcel substantially changes an Urban Renewal Plan which was approved by the Authority, City and State prior to July 1, 1973. Whether or not a change is substantial shall be determined by the Authority in accordance with longstanding criteria established by regulations of the Department of Housing and Urban Development and after considering its size, scope and its direct and indirect effects upon the environment and the project as a whole. However, notwithstanding the above non-retroactivity application, the Authority may require an impact report on any individual development parcel if it determines the preparation of said report would be in the public interest.

14. DISCRETIONARY AUTHORITY

If, at any time before the period for judicial review of compliance with these regulations has expired, the Authority has reason to believe that the facts or circumstances concerning any project as presented in any form or report required by these regulations are not as were presented, or have changed, or that additional information is necessary for any other reason, he may require an amendment or change in any such form or report, or the preparation of a new or additional form or report.

15. AMENDMENT

These regulations may be amended from time to time by the Authority in accordance with C. 30, s. 62.

16. SEVERABILITY

If any provision of these regulations or the application thereof is held to be invalid, such invalidity shall not affect other provisions or the application of any other part of these regulations not specifically held invalid, and to this end the provisions of these regulations and the various applications thereof are declared to be severable.

APPENDICES

The following appendices are intended to provide more details and supplemental information regarding the implementation of these regulations. They are further intended to provide flexibility in implementing Section 62 by permitting experience gained under these regulations to be used by incorporating appropriate information into the appendices. It is envisioned that the addition or modification of these appendices will be a continuing process in which the public and others are invited to recommend changes.

APPENDIX A

ENVIRONMENTAL ASSESSMENT FORM

Appendix A is the Environmental Assessment Form, as it may be amended from time to time by the Authority. The Environmental Assessment Form is made a part hereof and incorporated herein. Copies of the Assessment Form may be obtained by all agencies from the Boston Redevelopment Authority.

APPENDIX A

ENVIRONMENTAL ASSESSMENT FORM

This form is provided to assist you in determining whether a proposed project could cause significant environmental damage and thus require an environmental impact report.

EXECUTIVE OFFICE_____ DEPARTMENT_____

DIVISION_____ OTHER_____

PROJECT IDENTIFICATION_____

PREDICTED DATES: Commencement_____ Completion_____

PROJECTED COST_____

I. Background Information

1. Give a brief description of the proposed projects(s), and describe how your agency is involved in the project.

2. Describe the geographical area or areas which will be affected by the project(s), including distinguishing natural and man-made characteristics, and a brief description of the present use of the area or areas.

II. Assessment of Environmental Damage

Answer the following questions by placing a check in the appropriate space; consider both short and long term damage. Wherever "No" is checked, indicate on the lines below the question why there will be no significant damage.

	Short Term		Long Term	
	Yes	No	Yes	No
1. Could the project(s) affect the use of a recreational area or area of important aesthetic value?	___	___	___	___
2. Are any of the natural or man-made features in affected area(s) unique; that is, not found in other parts of the Commonwealth or nation?	___	___	___	___
3. Could the project(s) affect an historical or archaeological structure or site?	___	___	___	___
4. Could the project(s) affect the potential use, extraction, or conservation of a scarce natural resource?	___	___	___	___
5. Does the project(s) area serve as a habitat, food source, nesting place, source of water, etc. for rare or endangered wildlife or fish species?	___	___	___	___
6. Could the project(s) affect fish, wildlife, or plant life?	___	___	___	___

	Short Term		Long Term	
	Yes	No	Yes	No
7. Are there any rare or endangered plant species in the affected area(s)?	___	___	___	___
8. Could the project(s) change existing features of any of the Commonwealth's fresh or salt waters or wetlands?	___	___	___	___
9. Could the project(s) change existing features of any of the Commonwealth's beaches?	___	___	___	___
10. Could the project(s) result in the elimination of land presently utilized for agricultural purposes?	___	___	___	___
11. Will the project(s) require a variance from, or result in a violation of, any statute, ordinance, by-law, regulation or standard, the major purpose of which is to prevent or minimize damage to the environment?	___	___	___	___
12. Will the project(s) require certification, authorization or issuance of a permit by any local, state or federal environmental control agency?	___	___	___	___

	Short Term		Long Term	
	Yes	No	Yes	No
13. Will the project(s) involve the application, use or disposal of potentially hazardous materials?	___	___	___	___
14. Will the project(s) involve construction of facilities in a flood plain?	___	___	___	___
15. Could the project(s) result in the generation of significant amounts of noise?	___	___	___	___
16. Could the project(s) result in the generation of significant amounts of dust?	___	___	___	___
17. Will the project(s) involve the burning of brush, trees, construction materials, etc.?	___	___	___	___
18. Could the project(s) result in a deleterious effect on the quality of any portion of the state's air or water resources? (If yes, indicate whether surface, ground water, offshore)	___	___	___	___

	Short Term		Long Term	
	Yes	No	Yes	No
19. Could the project(s) affect an area of important scenic value?	___	___	___	___

_____

_____

20. Will the project result in any form of environmental damage not included in the above questions?	___	___	___	___

_____

_____

III. Statement of No Significant Environmental Effects

A "yes" answer to any of the questions in Section II indicates that the project may cause significant environmental damage, and that an EIR will probably be required. If you have answered "yes" to one or more of the questions, but still think the project will cause no significant environmental damage, indicate your reasons below.

IV. Conclusions

Place a check in the appropriate box.

1. ( ) It has been determined that the project will not cause significant environmental damage. No further reports will be filed.

2. ( ) It has been determined that the project may cause significant environmental damage. A draft environmental impact report will be submitted on _____(approximate date).

The draft report will be:

3. ( ) Standard 4. ( ) Extensive 5. ( ) Combined

6. Joint, in participation with_____, with _____designated as the lead agency.

Signature of Preparing Officer_____

Title_____

Address_____

Telephone_____

D08 BRA c.1
BRA
Rules and regulations governing
the requirements for protection
of the environment.